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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.,

Plaintiff, Counter-
defendant

v.

APPLE INC.,

Defendant,
Counterclaimant.

Case No. 4:19-cv-03074-YGR

**DEFENDANT APPLE INC.'S
ADMINISTRATIVE MOTION TO
PARTIALLY SEAL ITS FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

Pursuant to Federal Rule of Civil Procedure 26(c) and Local Rule 79-5, Defendant Apple Inc. (“Apple”) moves the Court to partially seal its Proposed Findings of Fact and Conclusions of Law. Apple respectfully requests that the Court seal information from trial exhibits and other trial testimony which the Court has already ordered sealed. Apple’s proposed redactions of that information are highlighted in [YELLOW] in the attached unredacted version. In addition, Apple has provisionally redacted information designated as confidential by Epic and third parties which the Court previously ordered sealed or is subject to a pending motion to seal. Provisional proposed redactions of that information are highlighted in [BLUE] in the attached unredacted version.

Federal Rule of Civil Procedure 26(c), generally, provides the “compelling reasons” standard for the purposes of sealing documents attached to a dispositive motion or presented at trial. *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). The test applied is whether a party has articulated compelling reasons “that outweigh the general history of access and the public policies favoring disclosure.” *Id.* at 1178–79.

Here, Apple has met this standard by narrowly tailoring its sealing request to include only that Apple confidential information derived from trial exhibits and trial testimony which this Court previously ordered sealed. *See* Brass Decl. ¶ 8. Additionally, Apple’s Findings of Fact and Conclusions of Law also includes information that the Court previously ordered sealed or that is subject to a pending motion to seal from Epic or a third party. *See* Brass Decl. ¶ 9. Apple takes no position on whether the Epic or third party information meets the standard for sealing at this time, but is filing the designated information under seal pursuant to the Court’s orders. *Id.* Pursuant to Local Rule 79-5(e)(1), Epic and any third parties have four days to file a declaration establishing that the material is “sealable” (as defined in Local Rule 79-5(b)).

CONCLUSION

For the foregoing reasons, Apple respectfully requests that the Court partially seal the identified information.

1 Dated: May 28, 2021

Respectfully submitted,

2 GIBSON, DUNN & CRUTCHER LLP

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4 By: /s/ Rachel S. Brass
Rachel S. Brass

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6 Attorney for Defendant Apple Inc.